



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/170601

PRELIMINARY RECITALS

Pursuant to a petition filed December 02, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Calumet County Department of Human Services in regard to Medical Assistance, a hearing was held on January 06, 2016, at Chilton, Wisconsin.

The issue for determination is whether the agency correctly determined that the petitioner was overpaid \$3,511.27 in BadgerCare (BC) Plus benefits for the period of July 1, 2014 through March 31, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]

Calumet County Department of Human Services
206 Court Street
Chilton, WI 53014-1198

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Calumet County. The petitioner is the only person in her household.
2. The petitioner received BadgerCare (BC) Plus benefits from April 1, 2014 through March 31, 2015.

3. On February 20, 2015 the agency sent the petitioner a notice stating that she would begin receiving BC Plus benefits on April 1, 2014. The notice went on to state that if her monthly gross income increased above \$972.50, she had to report that increase by the 10th day of the following month.
4. In May 2014 the petitioner's monthly gross income was \$3,360.01. The petitioner never reported that her income exceeded the monthly gross income reporting requirements of \$972.50. The petitioner's monthly gross income continued to be over \$972.50 during the entire overpayment period.
5. The agency learned that the petitioner was working and had state wages through a state wage match. The agency then requested verification of the petitioner's actual income from her employer. They then calculated the overpayment based upon the petitioner's actual income.
6. On November 5, 2015 the agency sent the petitioner a notice stating that she was overpaid \$3,511.27 in BadgerCare (BC) Plus benefits for the period of July 1, 2014 through March 31, 2015.
7. The Division of Hearings and Appeals received the petitioner's Request for Fair Hearing on December 4, 2015.

DISCUSSION

MA overpayment recovery is authorized by Wis. Stat., §49.497(1):

(a) The department may recover any payment made incorrectly for benefits provided under this subchapter or s. 49.665 if the incorrect payment results from any of the following:

1. A misstatement or omission of fact by a person supplying information in an application for benefits under this subchapter or s. 49.665.
2. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report the receipt of income or assets in an amount that would have affected the recipient's eligibility for benefits.
3. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report any change in the recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or the recipient's cost-sharing requirements.

See also the department's MA Handbook, Appendix 6.2.1.1. The overpayment must be caused by the client's error. Overpayments caused by agency error are not recoverable.

Under BC+ rules the income limit for childless adult is 100% of the poverty level. BC+ Handbook, Appendix 16.1.1. That amount for a one-person household at the time of this overpayment was \$972.50. BC+ Handbook, App. 50.1. The notices sent to BC Plus recipients reflect the eligibility limits in the reporting requirements. A childless adult must report when his or her monthly household gross income exceeds 100% of the poverty level, which is \$972.50 for a household of one. BC+ Handbook, App. 27.3.

The agency sent the petitioner a notice stating that she would receive BC Plus benefits effective April 1, 2014, and that she would have to report when her income exceeded \$972.50. The petitioner's income

exceeded this reporting requirement. She failed to report her increase in income to the agency. This failure to report caused the overpayment.

The petitioner argues that she should not be responsible for the overpayment because she was told that she was ineligible for BC Plus benefits. She then applied for insurance through the marketplace. Her income was under 100% of the poverty limit. The marketplace kicked her application back to the county agency who then processed her application, and determined that she was eligible for BC Plus effective April 1, 2014. The agency sent her notice stating that she was eligible for BC Plus benefits effective April 1, 2014 with her reporting requirements. At this point the petitioner was apparently shredding all notices from the BC Plus program. When a notice is sent to a person, the agency must presume that the person is opening and reading the notice. The agency did everything correctly. The petitioner's income exceeded the reporting requirement. She failed to report the increase in income, and the agency correctly determined the overpayment.

I further note that the petitioner used her BC Plus benefits during this overpayment period. Although she was shredding the BC Plus notices, she learned that she had the coverage at a doctor's office. Upon learning she had the coverage, she began using the coverage. I do not find the petitioner's testimony credibly that she was shredding the notices, however, even if that is true, that does not alleviate her responsibility for this overpayment.

CONCLUSIONS OF LAW

The agency correctly determined that the petitioner was overpaid \$3,511.27 in BadgerCare (BC) Plus benefits for the period of July 1, 2014 through March 31, 2015.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

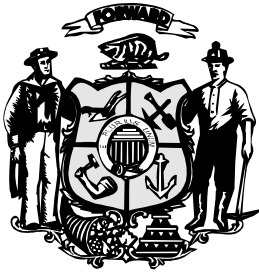
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 7th day of January, 2016

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 7, 2016.

Calumet County Department of Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability